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OFFICE OF PETITIONS

In re Application of	:	
Bartholomew et al.	:	
Application No. 09/144,635	:	DECISION ON PETITION
Filed: August 31, 1998	:	
Attorney Docket No. 50107-397	:	

This is decision on the petition filed on April 20, 2004, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On February 27, 2003, the Office mailed a nonfinal Office action, which set a two-month extendable period for response. In the absence of a timely filed reply, the application became abandoned on May 28, 2003. On September 24, 2003, the Office mailed a Notice of Abandonment. On April 20, 2004, petitioner filed the present petition.

In the present petition, it appears that petitioner is asserting non-receipt of the nonfinal Office action of February 27, 2003, due to USPTO error. Specifically, petitioner avers that petitioner submitted a "Revocation of Prior Powers, and Appointment of New Power of Attorney, and Change of Adresse [sic] of Record" on January 27, 2003; however, the USPTO failed to timely enter the revocation and appointment of power of attorney and the change of correspondence address due to an oversight by the Office. Petitioner states that the USPTO mailed the nonfinal Office action to an incorrect address. Accordingly, petitioner requests that the Office withdraw the holding of abandonment.

The Office notes:

Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a registered attorney or agent of record, (B) **an assignee as provided for under 37 CFR 3.73(b)**, or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an

assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. See 37 CFR 1.33(a)(2).

MPEP 601.03 (emphasis added).

In the present case, the record reveals that the USPTO received the "Revocation of Prior Powers, and Appointment of New Power of Attorney, and Change of Adresse [sic] of Record" on January 27, 2003, signed by Christian R. Andersen, Assistant Secretary of Verizon Services Corporation. Unfortunately, petitioner failed to comply with the requirements of 37 CFR 1.33(a)(2). Furthermore, there is no indication that petitioner submitted the required statement under 37 CFR 3.73(b) on January 27, 2003. For this reason, due to petitioner's failure to comply with 37 CFR 1.33(a)(2), petitioner could not change the correspondence address of record. Accordingly, the Office mailed the nonfinal Office action to the correct correspondence address of record, as it existed on February 27, 2003. Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

If petitioner desires, petitioner may submit a request for reconsideration of this decision within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are permitted under 37 CFR 1.136(a). The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

In the alternative, petitioner may wish to seek relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay, instead of submitting a request for reconsideration of the decision. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or Notice, unless previously filed; (2) the petition fee (\$750.00 for a small entity or \$1,500.00 for a large entity), and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

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